

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

B. MENDOZA-CONTRERAS, #24151-078 §

v. § CIVIL ACTION NO. 6:17cv81

UNITED STATES OF AMERICA §

MEMORANDUM OPINION ADOPTING THE REPORT
OF THE UNITED STATES MAGISTRATE JUDGE

Movant Baldimar Mendoza-Contreras (“Mendoza”), a federal prisoner confined at the Great Plains Correctional Institution, filed this motion to vacate, set aside, or correct his federal sentence pursuant to 28 U.S.C. § 2255. The case was referred to the United States Magistrate Judge, the Honorable K. Nicole Mitchell.

On April 16, 2018, Judge Mitchell issued a Report, (Dkt. #10), recommending that Mendoza’s motion be dismissed with prejudice. She also recommended that Mendoza be denied a certificate of appealability *sua sponte*. A copy of this Report was sent to Mendoza at his address, return receipt requested. The docket demonstrates that Mendoza received a copy of the Report on April 23, 2018, (Dkt. #11). However, to date, no objections have been filed.

Consequently, Mendoza is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See*

United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge, (Dkt. #10), is **ADOPTED** as the opinion of the court. Further, it is

ORDERED that Movant's motion to vacate, set aside, or correct his federal sentence is **DISMISSED** with prejudice. Movant is also denied a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all motions which may be pending in this case are hereby **DENIED**.

So **ORDERED** and **SIGNED** February 2, 2019.



Ron Clark, Senior District Judge